

Senate File 2304

H-8154

1 Amend Senate File 2304, as passed by the Senate, as  
2 follows:

3 1. By striking everything after the enacting clause  
4 and inserting:

5 <Section 1. NEW SECTION. 237C.1 Definitions.

6 As used in this chapter, unless the context  
7 otherwise requires:

8 1. "*Administrator*" means the administrator of that  
9 division of the department designated by the director  
10 of human services to administer this chapter or the  
11 administrator's designee.

12 2. "*Child*" or "*children*" means an individual or  
13 individuals under eighteen years of age.

14 3. "*Children's residential facility*" means a  
15 private facility designed to serve children who have  
16 been voluntarily placed for reasons other than an  
17 exclusively recreational activity outside of their  
18 home by a parent or legal guardian and who are not  
19 under the custody or authority of the department of  
20 human services, juvenile court, or another governmental  
21 agency, that provides twenty-four hour care, including  
22 food, lodging, supervision, education, or other care on  
23 a full-time basis by a person other than a relative or  
24 guardian of the child, but does not include an entity  
25 providing any of the following:

26 a. Care furnished by an individual who receives  
27 the child of a personal friend as an occasional and  
28 personal guest in the individual's home, free of charge  
29 and not as a business.

30 b. Care furnished by an individual with whom a  
31 child has been placed for lawful adoption, unless  
32 that adoption is not completed within two years after  
33 placement.

34 c. Child care furnished by a child care facility as  
35 defined in section 237A.1.

1 d. Care furnished in a hospital licensed under  
2 chapter 135B or care furnished in a health care  
3 facility as defined in section 135C.1.

4 e. Care furnished by a juvenile detention home  
5 or juvenile shelter care home approved under section  
6 232.142.

7 f. Care furnished by a child foster care facility  
8 licensed under chapter 237.

9 g. Care furnished by an institution listed in  
10 section 218.1.

11 h. Care furnished by a facility licensed under  
12 chapter 125.

13 i. Care furnished by a psychiatric medical  
14 institution for children licensed under chapter 135H.

15 j. Care furnished by a bona fide religious  
16 institution.

17 4. "Department" means the department of human  
18 services.

19 Sec. 2. NEW SECTION. 237C.2 Purpose.

20 It is the policy of this state to provide  
21 appropriate protection for children who are separated  
22 from the direct personal care of their parents,  
23 relatives, or guardians and, therefore, the purpose  
24 of this chapter is to provide for the development,  
25 establishment, and enforcement of standards relating to  
26 the certification of children's residential facilities.

27 Sec. 3. NEW SECTION. 237C.3 Certification  
28 standards — consultation with other agencies.

29 1. The department of human services shall consult  
30 with the department of education, the department of  
31 inspections and appeals, the department of public  
32 health, the state fire marshal, and other agencies  
33 as determined by the department of human services  
34 to establish certification standards for children's  
35 residential facilities in accordance with this chapter.

1 2. Standards established by the department under  
2 this chapter shall at a minimum address the basic  
3 health and educational needs of children; protection  
4 of children from mistreatment, abuse, and neglect;  
5 background and records checks of persons providing  
6 care to children in facilities certified under this  
7 chapter; the use of seclusion, restraint, or other  
8 restrictive interventions; health; safety; emergency;  
9 and the physical premises on which care is provided  
10 by a children's residential facility. The background  
11 check requirements shall be substantially equivalent to  
12 those applied under chapter 237 for a child foster care  
13 facility provider.

14 Sec. 4. NEW SECTION. **237C.4 Rules.**

15 1. Except as otherwise provided in this section,  
16 the department shall adopt rules pursuant to chapter  
17 17A to administer this chapter.

18 2. A children's residential facility shall be  
19 inspected by the state fire marshal or the state fire  
20 marshal's designee for compliance with rules relating  
21 to fire safety before the department grants or renews  
22 a certificate of approval under this chapter. Rules  
23 governing fire safety in children's residential  
24 facilities shall be promulgated by the state fire  
25 marshal pursuant to section 100.1, subsection 5, after  
26 consultation with the administrator.

27 3. Rules governing sanitation, water, and waste  
28 disposal standards for children's residential  
29 facilities shall be adopted by the department of public  
30 health pursuant to section 135.11, subsection 12, after  
31 consultation with the administrator.

32 4. Rules governing educational programs and  
33 education services provided by children's residential  
34 facilities shall be adopted by the state board of  
35 education pursuant to section 282.34.

1 5. In the case of a conflict between rules adopted  
2 pursuant to subsections 2 and 3 and local rules, the  
3 more stringent requirement applies.

4 Sec. 5. NEW SECTION. 237C.5 Certificate of  
5 approval — certification required.

6 A person shall not operate a children's residential  
7 facility without a certificate of approval to operate  
8 issued by the administrator under this chapter.

9 Sec. 6. NEW SECTION. 237C.6 Bona fide religious  
10 institution — notification required.

11 If care is furnished by a facility that is a bona  
12 fide religious institution exempt from the definition  
13 of children's residential facility under section  
14 237C.1, subsection 3, paragraph "j", but that would  
15 otherwise qualify as a children's residential facility  
16 under section 237C.1, subsection 3, the facility shall  
17 do all of the following:

18 1. Notify the department of human services in  
19 writing of the existence of the facility within thirty  
20 days of commencing operation.

21 2. Allow annually one scheduled inspection and  
22 one unannounced inspection of the facility by a  
23 representative of the department of inspections and  
24 appeals.

25 3. Authorize reasonable and timely access to  
26 clients and staff of the facility by a representative  
27 of the department of human services who is responsible  
28 for investigating an allegation of abuse.

29 Sec. 7. NEW SECTION. 237C.7 Certificate  
30 application and issuance — denial, suspension, or  
31 revocation.

32 1. A person shall apply for a certificate to  
33 operate a children's residential facility by completing  
34 and submitting to the administrator an application in  
35 a form and format approved by the administrator. The

1 administrator shall issue or reissue a certificate  
2 of approval if the administrator determines that the  
3 applicant is or upon commencing operation will provide  
4 children's residential facility services in compliance  
5 with this chapter. A certificate of approval is valid  
6 for up to one year from the date of issuance for the  
7 period determined by the administrator in accordance  
8 with administrative rules providing criteria for making  
9 the determination.

10 2. The certificate of approval shall state on  
11 its face the name of the holder of the certificate,  
12 the particular premises for which the certificate is  
13 issued, and the number of children who may be cared for  
14 by the children's residential facility on the premises  
15 at one time under the certificate of occupancy issued  
16 by the state fire marshal or the state fire marshal's  
17 designee. The certificate of approval shall be posted  
18 in a conspicuous place in the children's residential  
19 facility.

20 3. The administrator may deny an application for  
21 issuance or reissuance of a certificate of approval  
22 or suspend or revoke a certificate of approval if  
23 the applicant or certificate holder, as applicable,  
24 fails to comply with this chapter or the rules adopted  
25 pursuant to this chapter or knowingly makes a false  
26 statement concerning a material fact or conceals a  
27 material fact on the application for the issuance or  
28 reissuance of a certificate of approval or in a report  
29 regarding operation of the children's residential  
30 facility submitted to the administrator. All  
31 operations of a children's residential facility shall  
32 cease during a period of suspension or revocation. The  
33 administrator shall suspend or revoke a certificate  
34 of approval of a children's residential facility that  
35 fails to comply with section 282.34.

1     Sec. 8. NEW SECTION.   237C.8   Restricted use of  
2 facility.

3     A children's residential facility shall operate  
4 only in a building or on premises designated in the  
5 certificate of approval.

6     Sec. 9. NEW SECTION.   237C.9   Reports and  
7 inspections.

8     The administrator may require submission of reports  
9 by a certificate of approval holder and shall cause at  
10 least one annual unannounced inspection of a children's  
11 residential facility to assess compliance with  
12 applicable requirements and standards. The inspections  
13 shall be conducted by the department of inspections  
14 and appeals in addition to initial, renewal, and  
15 other inspections that result from complaints or  
16 self-reported incidents. The department of inspections  
17 and appeals and the department of human services may  
18 examine records of a children's residential facility  
19 and may inquire into matters concerning the children's  
20 residential facility and its employees, volunteers, and  
21 subcontractors relating to requirements and standards  
22 for children's residential facilities under this  
23 chapter.

24     Sec. 10. NEW SECTION.   237C.10   Injunctive relief  
25 — civil action.

26     1. A person who establishes, conducts, manages,  
27 or operates a children's residential facility without  
28 a certificate of approval required pursuant to this  
29 chapter, or a children's residential facility with  
30 a certificate of approval that is not operating in  
31 compliance with rules adopted pursuant to this chapter  
32 or section 282.34, may be restrained by temporary  
33 or permanent injunction from providing children's  
34 residential facility services or from other involvement  
35 with child care. The action may be instituted by the

1 state or a county attorney.

2 2. The parent or legal guardian of a child who is  
3 placed in a children's residential facility, the state,  
4 the department of education, or the school district  
5 in which the children's residential facility is  
6 located, may bring a civil action seeking relief from  
7 conduct constituting a violation of this chapter or  
8 section 282.34 or to prevent, restrain, or remedy such  
9 violation. A civil action brought by the department  
10 of education shall be limited to seeking relief from  
11 conduct constituting a violation of section 282.34.  
12 Multiple petitioners may join in a single action under  
13 this subsection.

14 3. If successful in obtaining injunctive relief  
15 under this section, the petitioner shall be awarded  
16 reasonable attorney fees and court costs.

17 Sec. 11. NEW SECTION. 237C.11 Notice and hearings  
18 — judicial review.

19 The procedure governing notice and hearing to deny  
20 an application or suspend or revoke a certificate of  
21 approval shall be in accordance with rules adopted by  
22 the department.

23 Sec. 12. NEW SECTION. 282.34 Educational programs  
24 for children's residential facilities.

25 1. A children's residential facility operating  
26 under a certificate of approval issued under chapter  
27 237C shall do all of the following:

28 a. Provide an educational program and appropriate  
29 education services to children residing in the  
30 children's residential facility by contracting with the  
31 school district in which the children's residential  
32 facility is located, contracting with an accredited  
33 nonpublic school, or becoming accredited as a nonpublic  
34 school through the standards and accreditation process  
35 described in section 256.11 and adopted by rule by the

1 state board of education.

2 *b.* Display prominently in all of its major  
3 publications and on its internet site a notice  
4 accurately describing the educational program and  
5 educational services provided by the children's  
6 residential facility.

7 *c.* Include in any promotional, advertising,  
8 or marketing materials regarding the children's  
9 residential facility, available in print or via  
10 the internet, all fees charged by the children's  
11 residential facility for the services offered or  
12 provided by the children's residential facility and its  
13 refund policy for the return of refundable portions of  
14 any fees.

15 2. The state board of education shall adopt by rule  
16 pursuant to chapter 17A standards for the following:

17 *a.* Educational programs and appropriate educational  
18 services provided under this section.

19 *b.* Contracts between children's residential  
20 facilities and school districts or accredited nonpublic  
21 schools.

22 *c.* Notices displayed in accordance with subsection  
23 1, paragraph "b".

24 3. A contract that fails to comply with any of the  
25 requirements of subsection 1, or with standards adopted  
26 by the state board of education under subsection 2, is  
27 void.

28 Sec. 13. REPEAL. Chapter 237B, Code 2016, is  
29 repealed.

30 Sec. 14. REPORT REQUIREMENT. By January 1, 2017,  
31 the department of human services, the department of  
32 education, the department of public health, and the  
33 state fire marshal shall each submit a report to the  
34 general assembly concerning their progress in adopting  
35 rules as appropriate under sections 237C.4 and 282.34,

1 as enacted by this Act.

2     Sec. 15. EXISTING FACILITY OPERATED BY BONA FIDE  
3 RELIGIOUS INSTITUTION. A facility in existence on the  
4 effective date of this Act, and which is exempt from  
5 the definition of children's residential facility under  
6 section 237C.1, subsection 3, paragraph "j", but which  
7 would otherwise qualify as a children's residential  
8 facility under section 237C.1, subsection 3, shall  
9 notify the department of human services in writing of  
10 its existence within thirty days of the effective date  
11 of this Act.>

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COMMITTEE ON GOVERNMENT OVERSIGHT  
KAUFMANN of Cedar, Chairperson